

Section 8 Contract Renewals And Rent Adjustments

Objectives

1. Renewals options available to property owners of expiring Section 8 contracts
2. Rent adjustment methods

Multifamily Assisted Housing Reform & Affordability Act of 1997 (MAHRA)

- Tenant Notification Guidelines
- Market Rent Comparability Rule
- Contract Renewal Options
- Rent Adjustment Options

Tenant Notification

- 1 year prior to the contract expiration
- Owner's Intent
- Section 8 Renewal Policy
 - Appendix 11-1 – Owner does not Intend to Renew
 - Appendix 11-2 – Owner Intends to Renew

Market Rent Comparability Rule

Section 8 Rents must be at or below
comparable Market Rents

Some Properties Exempt

Exceptions to the Comparability Rule

- State or Local Government Financing
- Section 202 and 515 Projects
- Projects not subject to a HUD-held or HUD-insured mortgage

Determine Market Rents

1. Non Section 8 Unit Rents

- 25% of tenants pay full rent per unit type
- Tenants pay full rent and do not receive any subsidy, rental concessions or rebates
- Market unit is similar to Section 8 units
- Appendix 9-6 Certification

Determine Market Rents

2. HUD Fair Market Rent (FMR)

- Gross Rent must be less than 75% of FMR
- Gross Rent includes utility allowances
- Appendix 9-7 Comparison Chart

Determine Market Rents

3. Rent Comparability Study (RCS)

- 3rd Party State Licensed General Appraiser
- Appraisal Institute
- Review for accuracy
- RCS Cover Letter

Option 1: Mark-Up-To Market (MU2M)

- Option 1A: Entitlement Mark-Up-To-Market
- Option 1B: Discretionary Authority

Option 1A: Entitlement MU2M Eligibility

- A REAC score of 60 or higher with no uncorrected EH&S violations
- Profit motivated or limited distribution entity
- RCS must demonstrate that the comparable market rents are at or above 100% of the published HUD Fair Market Rent (FMR) potential
- Project does not have use restrictions that cannot be eliminated by unilateral action by the owner.

Option 1B: Discretionary Authority Eligibility

- Owner's who do not meet all criteria for 1A
- Request an increase that is greater than 150% of FMR.
- HUD will consider 1B requests for projects that meet at least 1 of the following:
 - Vulnerable Populations
 - Vacancy Rates
 - Community Support

Option 1: Submission Requirements

- Contract Renewal Request Form
- Worksheet For Option 1
- RCS
- MU2M Initial Eligibility Worksheet
- One-Year Tenant Notification Letter

Option 1

Rent Determination & Adjustments

- No negotiations or appeals if owner's RCS differs from HUD's RCS.
 - HUD's RCS > Owner's RCS: Owner's RCS is used.
 - If Owner's RCS < 105% of HUD's RCS: Owner's RCS is used.
 - If Owner's RCS >= 105% of HUD RCS: 105% of HUD RCS is used.
- Rents are capped at 150% of FMR. (Option 1A only)
- Contract is renewed for a minimum of 5 years.
- Project is only allowed OCAF rent adjustment for years 2-5 of the MU2M contract.

Option 2: Projects with Rents At or Below Comparable Market Rents Eligibility

- RCS must show that Section 8 Contract rents are at or below the comparable market rents.
 - The RCS is reviewed and approved by a third party appraiser.
 - RCS has a 5-year life span and is adjusted by OCAF each year.
- Owner's of "Exception Projects" may renew under this option.
 - RCS is required.
 - If the RCS demonstrates current contract rents are above comparable market rents, contract rents are reduced to comparable market rents.

Option 2: Submission Requirements

- Contract Renewal Request Form
- Worksheet For Option 2
- RCS
- OCAF or Budget Based Rent Adjustment Request
- One-Year Tenant Notification Letter

Option 2: Projects with Rents At or Below Comparable Market Rents Rent Adjustments

- OCAF
- Budget-Based
- Rents are capped at market levels.
- Owner has the option of renewing the contract for 1-20 years.

Option 2: 20-Year Contracts

- The initial RCS will be used to determine eligibility
- A new RCS is required every five years.
 - The Section 8 contract rents will be adjusted upward or downward to correspond to the market rents determined by the new RCS.
- Outside of the years in which a new RCS is required, the property may request either an OCAF or budget-based rent increase.
 - All rent adjustments will be limited by the OCAF adjusted RCS.
- The owner may be eligible for an increased distribution.

Option 3: Referral to OAHP

- Option 3A: Lite
 - Rents are reduced market.
- Option 3B: Full
 - Rents are reduced with debt restructuring.

Option 3: Referral to OAHP Eligibility

- FHA Insured projects not identified as “Exception Projects”.
- Owner must not be suspended or debarred
 - Unless otherwise approved by HUD
- Section 8 Contract Rents must be greater than Comparable Market Rents.

Option 3: Submission Requirements

- Contract Renewal Request Form
- Worksheet For Option 3
- One-Year Tenant Notification Letter

*RCS not required.

Option 3: Referral to OAHP Processing

- Entry into OAHP
 - Interim Lite Contract (Option 3A)
 - Rents renewed at current rents
 - Contract is renewed for a 12-month period
 - Interim Full Contract (Option 3B)
 - Rents renewed at current rents
 - Contract is renewed for a 12-month period

Option 3: Exiting OAHP

- Option 3A (Lite) – Two Outcomes
 1. Basic Renewal Contract
 - Rents reduced to comparable market rent. Contract is renewed for 5 years.
 - Project is allowed OCAF rent increases for remainder of contract.
 2. Watch List Contract
 - Rents reduced to comparable market rent.
 - Contract is renewed for 1-year.

Option 3: Exiting OAHP

- Option 3B (Full) – Two Outcomes
 1. Full Mark to Market Contract
 - Rents reduced to comparable market rents
 - Contract term generally 20-years
 - Debt Restructuring
 - OCAF rent adjustments only
 - A new RCS is not required during the term of the contract
 2. Watch List Contract
 - Rents reduced to comparable market rent.
 - Contract is renewed for 1-year.

Option 4: Renewal of Projects Exempted from OAHP

- Eligibility
 - State or Local Government Financing
 - Section 202 and 515 Projects
 - Projects not subject to a HUD-held or HUD-insured mortgage

Option 4: Submission Requirements

- Contract Renewal Request Form
- Worksheet For Option 4
- OCAF Worksheet
- Budget Based Rent Adjustment
 - Attachment 5 (1st Time Only)
- One-Year Tenant Notification Letter

Option 4: Renewal of Projects Exempted from OAHP - Rent Adjustments

- “Lesser of” Test
 - Renewal rents are lesser of OCAF or Budget-Based
 - If budget does not support current rents, rents will be reduced to the levels supported by the budget.
- OCAF or Budget-Based allowed for multi-year rent adjustments.
- Owner has the option of renewing the contract for 1-20 years.
- “Lesser of” Test performed at each renewal.

Option 5: Portfolio Reengineering Demonstration and Preservation Contract Renewals

- **Eligibility**
 - Portfolio Reengineering Demonstration Program
 - Must have a Demo Program Use Agreement.
 - Projects with long-term use agreements under the Preservation Program (LIPHRA or ELIPHRA)

Option 5: Submission Requirements

- Contract Renewal Request Form
- Worksheet For Option 5
- Rent Adjustment per POA
- One-Year Tenant Notification Letter

Option 5: Portfolio Reengineering Demonstration

- Contract term cannot exceed the number of years remaining on the Use Agreement
- OCAF rent adjustments
- Cannot opt-out during the term of the Use Agreement

Option 5: Preservation Projects

- See Plan of Action (POA) for rent adjustment instructions
- Maximum term of the renewal contract cannot exceed the lesser of 20-years or the remaining term of the use-agreement.

Option 6: Opt-Out of the Section 8 Contract

- Owner's must provide tenants and HUD with a written 1 year notification they do not intend to renew
 - The owner will not be permitted to Opt-Out until after the tenants were given 1 year notification
 - If needed, HUD will offer a short-term contract to allow owner time to fulfill the 1-year requirement

Option 6: Submission Requirements

- At least 120 days prior to the contract's expiration, the owner must submit the following items:
 - An owner-signed Contract Renewal Request Form and Worksheet for Option 6
 - A copy of the One Year Notice that was distributed to tenants
 - A current Rent Roll
 - Copies of the 50059s for all current tenants

Rent Adjustments

- OCAF
- Budget Based Rent Adjustments

OCAF

- Operating Cost Adjustment Factor
- Effective February 11th
- Pennsylvania = 4.1%

OCAF Adjustment Submission Requirements

- OCAF Worksheet
 - Attachment 3B
 - Section 8 Renewal Policy
 - HUD Form 9625
 - www.hud.gov
- Utility Allowance Analysis

Step 1:

Calculate the current Section 8 Rent Potential for EXPIRING contracts

(A)	(B)	(C)	(D)
Unit Type and Contract and/or Stage	# of Units	Current Section 8 Contract Rents	Current Section 8 Rent Potential (B x C)
1BR	60	600	36,000
2BR	30	700	21,000
3BR	10	800	8,000

(E) Monthly Expiring Section 8 Contract Rent Potential
(Total of column D)

65,000

(F) Annual Section 8 Rent Potential for Expiring Contracts
(E x 12)

780,000

Step 2:

Calculate Increase Factor Adjusted by OCAF for Expiring contracts

(G)	Total Annual Rent Potential For Non-Expiring Section 8 Contracts	
(H)	Total Annual Rent Potential For Non-Sec. 8 Units	7,200
(I)	Total Annual Project Rent Potential (F + G + H)	787,200
(J)	Expiring Section 8 Portion of Total Project Rent Potential (F ÷ I)	0.99
(K)	Total Annual Project Debt Service	136,634
(L)	Annual Expiring Section 8 Share of Debt Service (J x K)	135,268
(M)	Annual Expiring Section 8 Potential Less Expiring Sec. 8 Share of Debt Service (F - L)	644,732
(N)	OCAF Adjustment	1.041
(O)	Annual Expiring Section 8 Rent Potential Attributed to Operations Multiplied by Published OCAF (M x N)	671,166
(P)	Adjusted Contract Rent Potential (L + O)	806,434
(Q)	Lesser of (P) or Comparable Rent Potential From Rent Comparability Study	806,434
(R)	Increase Factor (Q ÷ F)	1.034

Step 3:

Calculate OCAF Adjusted contract Rent Potential for Expiring Section 8 contracts ONLY

(S)	(T)	(U)	(V)	(W)	(X)
Unit Type and Contract and/or Stage	# Units	Current Contract Rents	OCAF Adjusted Rent (R x U)	Annual Adjusted Rent (V x 12)	Adjusted Annual Rent Potential (T x W)
1BR	60	600	620	7,440	446,400
2BR	30	700	724	8,688	260,640
3BR	10	800	827	9,924	99,240

(Y) Annual Adjusted Rent Potential of the Expiring Contracts(s)

(total Column X):

806,280

Budget Based Rent Adjustments

HUD Guidelines

- HUD Handbook 4350.1
 - Chapter 7
 - Section 7-22

Submission Requirements

- Cover Letter
- Budget Worksheet: HUD Form 92457-A
- Explanation and Documentation
 - Expenses increasing by 5% or more over the audit
- Owner's Certification Regarding Purchasing Practices and Reasonableness of Expenses

Submission Requirements

- Notice to Tenants
- Status Report of Energy Conservation Plan
- Reserve for Replacement Request
- Utility Allowance Analysis

Explanation & Documentation

- Expenses 5% or more than the audit must be documented
- Expenses less than 5% do not need to be documented
- Expenses \$500 or less do not need to be documented
- Exception: Expenses that appear higher than normal may require additional documentation even if they are less than 5% or \$500.

Revenue		
5120	Rent Revenue – Gross Potential	Requested rent potential for all units at the property.
5140	Rent Revenue – Stores and Commercial	Expected rent revenue for all stores and commercial space
5191	Excess Rent	For budget based rent adjustment purposes these accounts should be \$0
5194	Retained Excess Income	
5910	Laundry and Vending Revenue	Any significant decrease should be explained and documented.
5945	Interest Reduction Payment Revenue	236 Projects Only: Use to record HUD IRP payment - Amortization schedule
5990	Miscellaneous Revenue	Explain revenue source and provide backup

Financial Revenue

5400	All Financial Revenue Accounts	Always budget \$0
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Vacancies

5220	Apartments	Typically 5% allowed
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		Section 202 projects must budget \$0 😊
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5240	Stores and Commercial	No vacancy allowances for commercial space
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Administrative Expenses

6203	Conventions and Meetings	Use previous year's invoices to document cost
6210	Advertising and Marketing	Copies of advertising invoices
6250	Other Renting Expense	Copies of background/credit check invoices
6311	Office Expenses	Explanation should include breakdown of audited expenses vs. budgeted expense. Submit last 12-month G/L and invoices for those expenses greater than 5%.

6311-Office Expenses

Expense	Audit	Budget	Difference
Total	\$4,550	\$5,618	23.5%
Internet	\$700	\$728	4.0%
Office Supplies	\$1,500	\$1,890	26.0%
Telephone	\$1,350	\$2,000	48.0%
Software Licensing Fee	\$1,000	\$1,000	0%

Administrative Expenses

6320	Management Fee	Current Management Certification approved by HUD
6340	Legal Expenses – Project	Tenant Related Expenses Only Copies of Legal Invoices
6350	Audit Expenses	Copy of audit invoice or audit engagement letter
6351	Bookkeeping Fees/Accounting Services	

Utilities

6420	Fuel Oil/Coal	Most recent 12 month G/L Provide documentation from utility company stating amount of increase or 5% increase over G/L amount
6450	Electricity	
6451	Water	
6452	Gas	
6453	Sewer	

Operating & Maintenance Expenses

6515	Supplies	Explanation should include breakdown of audited expenses vs. budgeted expense. Submit last 12-month G/L and invoices for those expenses greater than 5%.
6520	Contracts	Explanation should include breakdown of audited expenses vs. budgeted expense. Submit last 12-month G/L and invoices for those expenses greater than 5%.

6520 - Contracts

Expense	Audit	Budget	Difference
Total	\$50,000	\$56,700	13%
Elevator	\$20,000	\$25,000	25%
Exterminating	\$10,000	\$11,000	10%
Landscaping	\$8,000	\$8,200	4.17%
Cleaning	\$12,000	\$12,500	13.4%

Operating & Maintenance Expenses

6525	Garbage and Trash Removal	Submit last 12-month G/L and most recent invoice
6546	Heating/Cooling Repairs and Maintenance	Submit last 12-month G/L and documentation to support expense such as quotes.
6548	Snow Removal	Submit last 12-month G/L and explanation with documentation if requesting a higher amount
6570	Vehicle & Maintenance Equipment Repair	Submit last 12-month G/L and documentation to support expense such as quotes.

Taxes and Insurance

6710	Real Estate Taxes	Submit tax bill
6720	Property & Liability Insurance	Submit most recent invoice or quote for new policy. Remember to shop around.
6722	Workmen's Compensation	Include in payroll analysis and submit invoice or quote.
6723	Health Insurance & Other Employee Benefits	Submit quote from current provider. Remember to shop around for quotes. Health Ins. & Other Benefits Analysis worksheet

Debt Service*		
6820	Interest on Mortgage Payable	Mortgage Statement or Amortization Schedule
	Principal Payments Required	
6850	Mortgage Insurance Premium/Service Charge	

- 1.) Section 202s that prepaid should use the Debt Service associated with the original 202 Mortgage.
- 2.) HUD insured mortgages that were refinanced with conventional debt should use the Debt Service associated with the original HUD Insured Loan. 😊

Payroll Accounts

6310	Office Salaries	Submit Payroll Analysis showing current and future salaries.
6330	Manager or Superintendent	
6510	Payroll	
6530	Security Payroll	

Payroll Analysis

Payroll Analysis For "XXXX PROPERTY NAME XXXX"									
Account #	Employee Name	Position	Hire Date	Hours per week	Current FY Salary	% Increase	Projected FY Salary	#6711: Budgeted Payroll Tax Amount (_% gross wages)	#6723: Budgeted Health Insurance and Other Benefits
6310		Administrator	MM/DD/YY		\$ 25,643.00	4.00%	\$ 26,668.72	\$ -	\$ 2,652.00
					Account Total		\$ 26,668.72		
6330		Superintendent	MM/DD/YY		\$ 54,560.00	5.00%	\$ 57,288.00	\$ -	\$ 2,943.00
					Account Total		\$ 57,288.00		
6510		Maintenance	MM/DD/YY		\$ 22,540.00	3.00%	\$ 23,216.20	\$ -	\$ 2,143.00
6510		Custodial	MM/DD/YY		\$ 18,352.00	3.00%	\$ 18,902.56	\$ -	\$ 250.00
					Account Total		\$ 42,118.76		
								6711 Total	6723 Total
								\$ -	\$ 7,988.00

Miscellaneous Accounts

6390	Miscellaneous Administrative Expenses	Line item should be \$0 or relatively small if expenses are accurately classified. Submit 12-month G/L with supporting invoices.
6590	Miscellaneous Operating & Maintenance Expenses	
6790	Miscellaneous Taxes, Licenses, Permits, & Insurance	
6890	Miscellaneous Financial Expenses	

Service Coordinator		
5300	Nursing Homes/Assisted Living/ Board & Care/ Other Elderly Care/Coop/ and Other Revenue	If revenue and expenses offset then no documentation needed.
6900	Nursing Homes/Assisted Living/ Board & Care/ Other Elderly Care Expenses	When expense is greater than revenue documentation should be submitted showing difference. Additional expense is subject to HUD approval.

New Service Coordinators must be approved by HUD.

Utility Allowance Analysis

- Must be submitted with every adjustment and renewal.
- HUD Handbook 4350.1
 - Chapter 7, Section 7-24
- Full 12-month survey of all applicable units

UA Analysis Submission

- Analysis – include survey for each unit type
- Summary:
 - Identify the type of utilities covered
 - State if any increases or decreases were or plan to be implemented
 - State how energy conservation plan will impact consumption
- Back Documentation

Utility Allowance Analysis

- If analysis shows less than 10% increase or decrease in UA amounts, a Certification can be submitted instead of a complete analysis.
 - UA analysis will be verified at next MOR.
- 2 consecutive years of decreases of 10% or more before UA change

Rent Schedules

- Should include all units in property
- Rent effective dates will be same as contract effective date
 - Contract Effective Date = January 1, 2005
 - Rent Effective Date = January 1, 2011
- Non-Revenue units should be listed in both Part A & Part D.
- Compare most recent rent schedule with the current submission.

Rent Schedules

- Changes to the Rent Schedule approved by HUD should be executed by HUD.
 - Unit configuration changes
 - Non-revenue unit changes
 - Additional Charges
 - Non-Section 8 rent increases

Internet Links

All HUD Handbooks, Housing Notices, and Forms can be downloaded from:

<http://www.hud.gov/offices/adm/hudclips/>

and

<http://www.pamam.net>

Section 8 Renewal Information:

<http://www.hud.gov/offices/hsg/mfh/mfhsec8.cfm>

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